

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

DECISION AND ORDER

10-MJ-4033MWP-DGL

v.

NORMAN MEHLENBACHER,

Defendant.

Subsequent to the defendant's arrest on child pornography charges, on motion, United States Magistrate Judge Marian W. Payson ordered the defendant to submit to a psychiatric examination, pursuant to 18 U.S.C. § 4241(b) to determine the mental competency of the defendant. The defendant was transferred to the Federal Bureau of Prisons Medical Center in Springfield, Missouri for that examination.

Medical providers at that facility issued a lengthy forensic report, dated October 28, 2010, and concluded that the defendant was competent to stand trial, that he was able to understand the nature and consequences of the proceeding and to assist in his defense. Thereafter, Magistrate Judge Payson conducted a competency hearing, on November 30, 2010, relative to the report from the Springfield Medical Center. Neither the Government nor defendant filed any objections to that report. Therefore, Magistrate Judge Payson issued a Report and Recommendation (Dkt. #20) recommending that this Court determine that the defendant is competent to stand trial. Neither the Government nor defendant has filed any objections to that Report and Recommendation.


I have reviewed Magistrate Judge Payson's Report and Recommendation, as well as the lengthy 19-page forensic report from the Springfield Medical Center concerning the defendant and

his psychiatric condition. The report of the treatment providers determined that the defendant competent to stand trial, and I see no reason to reject or modify that conclusion. After reviewing the medical record, I concur with the forensic report.

CONCLUSION

I accept and adopt the Report and Recommendation of United States Magistrate Judge Marian W. Payson (Dkt. #20). I find by a preponderance of the evidence that the defendant is not presently suffering from a mental disease or defect that would render him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings and enable to assist properly in his defense. I therefore determine that the defendant is competent to stand trial.

IT IS SO ORDERED.



DAVID G. LARIMER
United States District Judge

Dated: Rochester, New York
January 11, 2011.